

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MARCUS DEON COLEMAN,)	
)	
Petitioner,)	
vs.)	NO. CIV-05-0212-HE
)	
MIKE MULLIN,)	
)	
Respondent.)	

ORDER

Petitioner Marcus Deon Coleman, a state prisoner appearing *pro se*, instituted this action pursuant to 28 U.S.C. § 2254 seeking a writ of habeas corpus. Consistent with 28 U.S.C. §636(b)(1)(B), the matter was referred to Magistrate Judge Bana Roberts, who has issued her Report and Recommendation suggesting that the respondent's motion to dismiss be granted and the petition dismissed without prejudice for failure to exhaust state court remedies.

The petitioner failed to object to the Report and Recommendation and, accordingly, waived his right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996), *cert. denied*, 519 U.S. 909 (1996). See 28 U.S.C. § 636(b)(1)(C); LCvR72.1(a).¹ The court also concurs with the Magistrate Judge's analysis that dismissal is appropriate for failure to exhaust.


Accordingly, the court adopts Magistrate Judge Robert's Report and

¹*The petitioner also failed to respond to the respondent's motion or seek an extension of time within which to do so.*

Recommendation and **DISMISSES** the petition for writ of habeas corpus without prejudice.

IT IS SO ORDERED.

Dated this 4th day of August, 2005.



JOE HEATON
UNITED STATES DISTRICT JUDGE